

PROB 12C  
(7/93)Report Date: July 13, 2012  
FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

## United States District Court

for the

JUL 16 2012

Eastern District of Washington

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

## Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Juan Pena

Case Numbers: 2:06CR02001-001 and  
2:06CR02146-001

Address of Offender: [REDACTED] Auburn, WA 98092

Name of Sentencing Judicial Officer: The Honorable William Fremming Nielsen, Senior U.S. District Judge

Date of Original Sentence: 12/19/2006

Original Offense: Distribute and Receive Child Pornography, 18 U.S.C. § 2252A(a)(2)(A)

Original Sentence: Prison - 69 Months;  
TSR - 60 Months

Type of Supervision: Supervised Release

Asst. U.S. Attorney: TBD

Date Supervision Commenced: 09/09/2011

Defense Attorney: TBD

Date Supervision Expires: 09/08/2016

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 PETITIONING THE COURT

## To issue a warrant.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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- |   |  |
|---|--|
| 1 | <b>Special Condition # 20:</b> You shall be prohibited from possessing or manufacturing any material, including videos, magazines, photographs, computer-generated depictions, or any other forms that depict sexually explicit conduct involving children or adults, as defined at 18 U.S.C. § 2256(2). Neither shall you enter nor frequent any establishment involved in the sex industry, including adult bookstores, massage parlors, and strip bars. You shall not utilize any sex-related adult telephone numbers. The supervising probation officer is authorized to monitor compliance in this area by obtaining telephone records. |
|---|--|

**Supporting Evidence:** Juan Pena is considered in violation of his supervised release in the Eastern District of Washington by viewing sexually explicit material on multiple occasions, before June 27, 2012.

- |   |   |
|---|---|
| 2 | <b>Special Condition # 15:</b> You shall not utilize any electronic communication device except as explicitly allowed by the supervising probation officer. |
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**Supporting Evidence:** Juan Pena is considered in violation of his supervised release in the Eastern District of Washington by utilizing electronic communication devices, specifically computers with Internet access, without the permission of the probation officer, before June 27, 2012.

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- 3        **Special Condition # 20:** You shall be prohibited from possessing or manufacturing any material, including videos, magazines, photographs, computer-generated depictions, or any other forms that depict sexually explicit conduct involving children or adults, as defined at 18 U.S.C. § 2256(2). Neither shall you enter nor frequent any establishment involved in the sex industry, including adult bookstores, massage parlors, and strip bars. You shall not utilize any sex-related adult telephone numbers. The supervising probation officer is authorized to monitor compliance in this area by obtaining telephone records.

**Supporting Evidence:** Juan Pena is considered in violation of his supervised release in the Eastern District of Washington by entering an adult bookstore, before June 27, 2012.

- 4        **Special Condition # 23:** You shall have no contact with any child under the age of 18, without the presence of an adult and approved in advance by the supervising probation officer. You shall immediately report any unauthorized contact with minor-aged children to the supervising probation officer.

**Supporting Evidence:** Juan Pena is considered in violation of his supervised release in the Eastern District of Washington by having unsupervised contact with children under the age of 18 and failing to immediately report contact with minor children to the probation officer on multiple occasions, before June 27, 2012

The evidence for all violations has been combined for brevity and clarity. On September 9, 2011, Mr. Pena was released to supervision in the Western District of Washington. On September 12, 2011, Mr. Pena met with Senior U.S. Probation Officer Michael Larsen and the conditions of supervision were reviewed in depth with him. In addition to the other conditions of supervision, Mr. Pena was specifically advised of the following: he could not access the Internet with the exception of WorkSource computers for employment purposes only; he was not to view or possess any sexually explicit material; he was not to enter any area or business devoted to the sex industry; and he was not to have any contact with minors without the presence of adults who had completed a certified chaperone training.

On June 27, 2012, Mr. Pena submitted to a polygraph examination by a licensed polygraph examiner. The polygrapher noted in a subsequent report that Mr. Pena was not truthful regarding questions about viewing pornography and accessing the Internet without permission. Due to Mr. Pena's significant reactions to these questions, the polygrapher was unable to determine if he was being truthful regarding having unsupervised contact with minors. In the report, it is noted that Mr. Pena admitted to the polygrapher, he had been using his ex-wife's computer without permission of the probation officer and had unsupervised contact with his grandchildren, for short periods, on multiple occasions while his son was out of the room. It is noted that on multiple occasions the supervising probation officer had been told by Mr. Pena and his ex-wife, whom he lives with, that his ex-wife's computer was password protected in her locked bedroom and Mr. Pena did not have any access to it.

On June 29, 2012, Mr. Pena admitted to the supervising probation officer that his ex-wife had accessed her computer for him, on multiple occasions while he stood behind her. Mr. Pena stated he did not believe this was a violation since he did not actually touch the keyboard. He also admitted viewing a pornographic magazine, on one occasion, after a co-worker left the magazine in his work truck. Mr. Pena stated he had accessed Craigslist personal advertisements using WorkSource computers and that some of the personal advertisements contained nude photographs of women. He admitted knowing this was a violation of instructions given by the supervising probation officer and WorkSource rules. He also admitted he had been seeing his grandchildren with his son present despite directions that he cannot have contact with minors without the presence of an adult who has completed chaperone

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training. He also admitted being alone with his grandchildren, for short periods, on numerous occasions while his son was in the bathroom.

On June 30, 2012, Mr. Pena submitted to a second polygraph examination. Prior to the polygraph he made additional admissions to the polygrapher regarding violation conduct. Specifically, Mr. Pena admitted he had viewed pornographic magazines left in his work truck by coworkers on multiple occasions; reported he had seen/viewed pornographic websites on his ex-wife's computer and WorkSource computers; admitted to viewing nude photos on Craigslist and nude "pop ups" on his ex-wife's computer; and admitted going with his ex-wife to an adult bookstore. Regarding his trip to the adult bookstore, Mr. Pena stated he went with his ex-wife with the intent of purchasing a sex toy for his girlfriend. In addition to his unauthorized internet use at his ex-wife's home and at WorkSource, he also admitted unauthorized Internet use at both of his sons' homes. After his subsequent admissions, the polygrapher noted that Mr. Pena's responses on the second polygraph exam were truthful.

On July 10, 2012, the supervising officer met with Mr. Pena regarding the second polygraph and his admissions. Mr. Pena minimized all of the conduct by stating he felt these violations were "grey areas."

The U.S. Probation Office respectfully recommends the Court issue a warrant for the arrest of the defendant to answer the allegations contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 07/13/2012

s/Rebecca M. Nichols

Supervising U.S. Probation Officer

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#### THE COURT ORDERS

- ☐ No Action  
☒ The Issuance of a Warrant  
☐ The Issuance of a Summons  
☐ Other

  
Signature of Judicial Officer

7/16/12  
Date